IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION 5:12-cv-714-D

LOUSHONDA MYERS, et. al.,)
Plaintiffs,)
Vs.)
THE STATE OF NORTH CAROLINA, et. al.,)
Defendants.)

DEFENDANTS WAKE COUNTY SHERIFF DONNIE HARRISON, UNKNOWN OFFICERS/AGENTS OF THE WAKE COUNTY SHERIFF'S DEPARTMENT AND WAKE COUNTY'S MOTION TO DISMISS (Failure to State a Claim)

NOW COMES defendants Sheriff Donnie Harrison (and any unknown officers/agent of the Wake County Sheriff's Department) and Wake County and all hereby move the court to dismiss this action pursuant to Rule 12(b)(6) the Federal Rules of Civil Procedure on the grounds that the plaintiff's complaint fails to state a claim upon which relief may be granted and should be dismissed.

WHEREFORE, these defendants pray the Court enter an Order dismissing Plaintiffs' complaint and for such other and further relief as to the Court may seem just.

Respectfully submitted, this 10th day January 2013.

ATTORNEYS FOR SHERIFF HARRISON AND WAKE COUNTY

/s/ John A. MAxfield

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N.C. State Bar # 18081

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CERTIFICATE OF SERVICE VIA CM/ECF and US MAIL

I hereby certify that on January 10, 2013 I electronically filed the foregoing MOTION TO DISMISS and, I hereby further certify that I served this document electronically pursuant to Local Civil Rule 5.1(b) upon all registered users of CM/ECF; and upon all other non-registered parties or attorneys pursuant to Rule 5 of the Federal Rules of Civil Procedure by depositing a copy in the care and custody of the United States Postal Service with proper postage affixed thereon this 10th day of January 2013, and addressed as follows:

SERVED VIA US MAIL UPON:

Loushonda Myers 27 Wateree Trail Georgetown, South Carolina 29440

/s/ Roger A. Askew

Roger A. Askew

Deputy County Attorney

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